

*Application No. 09/965765*  
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*Amendment*  
*Attorney Docket No. S63.2B-10002-US01*

**Remarks**

This Amendment is in response to the Office Action dated January 13, 2004, wherein claim 4 was rejected under 35 U.S.C. §112, second paragraph; claims 1, 2, 4, 10, 15, 19, 22, 28, 29, 32, 33 and 34 were rejected under 35 U.S.C. §102(b) as being anticipated by EP 0956 878 to Tachikawa et al (Tachikawa); and claims 30 and 31 were rejected under 35 U.S.C. §103(a) as being obvious over Tachikawa.

The following paragraphs are presented in the same order and with paragraph headings and numbers which correspond to the Final Office Action.

**3-4. Claim Rejections – 35 USC §112**

In the Final Office Action claim 4 was rejected under §112, second paragraph as being dependent on a cancelled claim (claim 3). In response, Applicant notes that claim has been corrected to properly depend from claim 1. In light thereof, Applicant respectfully requests withdrawal of the rejection.

**5-6. Claim Rejections – 35 USC §102**

In the Final Office Action claims 1, 2, 4, 10, 15, 19, 22, 28, 29, 32, 33 and 34 were rejected under §102(b) as being anticipated by Tachikawa. In response, respectfully directs the Examiner to claim 1 as amended herein wherein it has been clarified that the catheter claimed includes a distal tip that is engaged to the catheter shaft and which has a material composition that is different from the catheter shaft. This is in contrast with Tachikawa, which merely describes a catheter main segment 2 having an inner layer 4 and an outer layer 6. Tachikawa fails to teach or suggest a catheter having a catheter shaft with a distal tip, wherein the tip has a different material composition than the shaft, and the tip is comprised of an inner matrix layer, an outer matrix layer and at least one stripe positioned between at least a portion of the inner matrix layer and the outer matrix layer as the instant claims recite. As a result the rejection is overcome.

**7-8. Claim Rejections – 35 USC §103**

In the Final Office Action claims 30 and 31 were rejected under §103(a) as being

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obvious over Tachikawa.

Tachikawa fails to teach or suggest all of the elements of instant claim 1. As indicated above claim 1 is directed to a catheter having a catheter shaft and a distal tip, which has a different material composition than the catheter shaft as well as the other elements recited.

There is nothing in Tachikawa which teaches or suggests a catheter having all of the elements claimed. For the same reasons that instant claim 1 is non-obvious over Tachikawa so to are those claims which depend from claim 1 including claims 30 and 31 (Dependent claims are nonobvious under section 103 if the independent claims from which they depend are nonobvious) *Hartness Int'l, Inc. v. Simplimatic Eng'g Co.*, 819 F.2d 1100, 1108, 2 USPQ2d 1826, 1831 (Fed. Cir. 1987); *In re Abele*, 684 F.2d 902, 910, 214 USPQ 682, 689 (CCPA 1982); see also *In re Sernaker*, 702 F.2d 989, 991, 217 USPQ 1, 3 (Fed. Cir. 1983).

#### Conclusion

In view of the foregoing it is believed that the present application with claims 1, 2, 4, 10, 19, 22 and 28-34 is in condition for allowance. Early action to that effect is earnestly solicited.

Respectfully submitted,

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4/5/04

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